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EXAMINER

NAJJAR, SALEH

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 04/25/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/332,069

Applicant(s)

MARYKA ET AL.

Examiner

Saleh Najjar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-20 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. This action is responsive to communication filed on February 8, 2002. Claims 1-20 are pending. Claims 1-20 represent method and apparatus for incremental download from a server to a client. The applicant is correct in pointing out the typographical error in the previous office action that mistakenly indicated that claims were withdrawn from consideration.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 6, 9, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Britt, Jr. et al., U.S. Patent No. 6,023,268.

Britt teaches the invention as claimed including a system and method for reducing latency while downloading data over a network (see abstract).

As to claims 6, and 11, Britt teaches a method in the initializing a device comprising the steps of:

determining whether an archive was being committed to persistent storage when said device was powered off (see figs. 1-15; col. 12, Britt teaches that if the device loses power during downloading of software, the downloading is re-established at the point of failure); and

instructing said persistent storage to clear the portion of said archive committed to persistent storage when said step of determining establishes that an archive was being committed when said device was powered off, wherein said archive is committed to a repository of said persistent storage (see figs. 1-15; col. 9-12, Britt inherently teaches clearing the portion of archive committed to memory since it is disclosed in Britt that the number of blocks of data written before power off is maintained so that if a block of data was not completely written the associated block number field is not maintained and thus if the capacitor was not present there inherently would be an erasure step taken of the part of data block being written into memory in which a failure in recording the block number occurred).

Claim 9 does not teach or define any new limitations above claim 6 and therefore is rejected for similar reasons.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Britt. Britt teaches the invention substantially as claimed including a system and method for reducing latency while downloading data over a network (see abstract).

As to claim 10, Britt teaches the method of claim 6 above.

Britt fails to teach the claimed limitation wherein said archive is a Java archive of JavaBean objects.

Official Notice is taken that the concept and advantages of implementing software using JavaBean objects is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Britt by implementing JavaBean software objects to allow developers to create reusable software components that can then be assembled together using visual application builder tools.

6. Claims 1-5, and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godse, U.S. Patent No. 6,202,09.

Godse teaches the invention substantially as claimed including a method and system for initializing a computer from power up (see abstract).

As to claims 1, and 5, Godse teaches a method for transferring at least a portion of a group of objects to a first computer from a second computer, said first computer having a central processing unit, random access memory and a persistent storage means, said first and second computers connected by a communication medium (see figs. 1-3), said method comprising the steps of:

interrogating said first computer for configuration information, determining required objects for transfer based on an operation that considers, at least in part, said

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configuration information and said group of objects (see figs. 1-6; col. 7-8, Godse teaches that a discovery process interrogates the first computer for configuration setup information and determines what files are needed based on the step of a discovery process);

packaging said objects into an archive, and transferring said archive to said random memory, committing said archive to said random access memory, and committing a list of said required objects to said persistent storage, and activating said required objects in said random access memory (see figs. 7-9; col. 9-10, Godse teaches that the files determined to be needed for initialization of the computer are downloaded to the memory of the computer and initialized);

Godse fails to teach the claimed steps of "committing an archive-commit flag on/off, and setting a list-commit flag on/off".

Godse does teach that a policy file implements the stages of computer boot verifying that each step such as startup, discovery, software download, software initialization, and data fill are sequentially performed (see col. 6-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Godse by implementing the functionality of the policy files using flags since the same functionality is achieved.

As to claims 2-4, Godse teaches the method of claim 1 above.

Godse fails to teach the claimed limitation wherein said archive is a Java archive of JavaBean objects.

Official Notice is taken that the concept and advantages of implementing software using JavaBean objects is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Godse by implementing JavaBean software objects to allow developers to create reusable software components that can then be assembled together using visual application builder tools.

Claims 7-8 do not teach or define any new limitations above claims 1-5 and therefore are rejected for similar reasons.

7. Claims 12-20 are allowed.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Applicant's arguments filed February 8, 2002 have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that the recording of the booting steps in the status file in Godse does not have the same functionality as the setting of flags, does not indicate the start and completion of a storage operation as recited in claim 1.

In response, The status file referred to in the previous action records the overall steps involved in the booting process which included startup, discovery, software download, software initialization, and data fill. In the previous office action, the status file was referred to simply to outline the steps taken during a booting process. The Examiner respectfully directs the applicant's attention to the policy file which implements the stages of computer boot, verifying that each step such as startup, discovery, software download, software initialization, and data fill are sequentially performed (see col. 6-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Godse by implementing the functionality of the policy file using flags since the same functionality is achieved.

The applicant also argues that Britt does not teach clearing the portion of the archive committed to persistent storage when the device was powered off and restarting the process.

In response, Britt inherently teaches clearing the portion of archive committed to memory since it is disclosed in Britt that the number of blocks of data written before power off is maintained so that if a block of data was not completely written the associated block number field is not maintained and thus if the capacitor was not

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present there inherently would be an erasure step taken of the part of data block being written into memory in which a failure in recording the block number occurred (see figs. 1-15; col. 9-12).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AN MENG AI, can be reached on (703) 305-9678. The fax phone number for this Group is (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The fax number for the After-Final correspondence/amendment is (703) 746-7238. The fax number for official correspondence/amendment is (703) 746-7239. The fax number for Non-official draft correspondence/amendment is (703) 746-7240.



Saleh Najjar
Primary Examiner / Art Unit 2154